IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 3RD APRIL 2007 / 13TH CHAITHRA 1930

WP(C).No. 11340 of 2007(Y)

PETITIONER:

C.P.UDAYABHANU,
BHARATHAM, TRIPUNITHURA.

BY ADV. SRI.P.N.MOHANAN

RESPONDENTS:
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1. PEOPLE'S URBAN CO-OP.BANK LTD. NO.51,
TRIPUNITHURA P.O., ERNAKULAM,
REP.BY ITS PRESIDENT.

2. JOINT REGISTRAR OF CO-OP.SOCIETIES
(GENERAL), ERNAKULAM.

R1 BY ADV. SRI.T.A.RAJAN
R2 BY SR. G.P. SRI.P.N.SANTHOSH

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 03/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C) No.11340 of 2007

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Dated this the 3rd day of April, 2007.

JUDGMENT

Heard counsel for the petitioner and counsel appearing for first respondent. The petitioner is a surety for the loan availed by a firm of which petitioner's wife is also a partner. Counsel for the Bank submitted that the amount awarded and confirmed by the Tribunal is nearly Rs.1.5 crores. The petitioner whose property is mortgaged for the loan has a case that the Bank has agreed for settlement at Rs.1.2 crores. However, petitioner has not produced any settlement or terms thereof in court. Counsel for the Bank pointed out that security cannot be released unless full payment is made. The prayer in the W.P. is for direction to the Bank to lift charge in respect of one item of property on payment of Rs.70 lakhs. It is not for the court to issue any specific direction to the Bank to lift charge in respect of any item of property. However, if substantial amount is paid, I see no reason why the Bank should not lift charge in respect of part of the property if balance property is sufficient to take care of remaining debt. It is also open to the Bank to accept alternate security for releasing charge in respect of one item of property for the owner to sell any item of property

and settle liability. The W.P. is accordingly disposed of with direction to the Secretary to place petitioner's proposal before the managing committee for their consideration and decision. If payment is not made or arrangement is not made for sale of property and settlement of liability, it is open to the Bank to proceed for take over of possession and sell the property under Securitisation Act or any other provision. Petitioner and other debtors and guarantors will submit concrete proposals before the committee along with copy of judgment within three weeks from today and the Bank will communicate it's decision within one week thereafter.

C.N.RAMACHANDRAN NAIR
Judge

pms